IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

WP(C).No. 34556 of 2007(L)

OS.1261/2004 of PRL.M.C.,TRIVANDRUM
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PETITIONER:

JUSTUS GOMEZ, S/O. ELLIAS GOMEZ,
BEENA BHAVAN, T.C.32/30, MADHAVAPURAM,
KADAKAMPALLY VILLAGE, TRIVANDRUM.

BY ADV. SRI.SANTHAN V.NAIR

RESPONDENT:

MANUEL, S/O. ELLIAS GOMEZ,
T.C.1/2 NEAR NORTH GATE OF VSSC (ISRO),
PATTITHURA P.O., TRIVANDRUM.

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THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.34556 of 2007

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Dated this the 22nd day of November, 2007.

JUDGMENT

This Writ Petition is filed seeking to set aside Ext.P4 order. Ext.P4 is passed in I.A.No.5676 of 2007 whereby the petitioner, namely, the plaintiff, wanted the Commissioner to note particulars. The court dismissed the application on the ground that as the suit is listed for the day, the application is filed only to protract the matter. I am informed by the learned counsel for the writ petitioner that the matter is still pending before the court below and it has not been disposed of. If so, the Munsiff is to pass an order on the application on merits and not on the ground of listing the matter for that day.

2. Therefore, the order under challenge is set aside and the learned Munsiff, Thiruvananthapuram is directed to restore I.A.No.5676 of 2007 in O.S.No.1261 of 2004 back to file and dispose of the matter in accordance with law after hearing both sides.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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